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**S A C K E T T**  
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Attorney for Plaintiff

/as

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RAUL MARTELL,

Plaintiff,

v.

ANDREW SAUL,  
Commissioner of Social Security,

Defendant.

Case No.: 1:20-cv-03881-RMI

STIPULATION AND ~~PROPOSED~~  
ORDER FOR THE AWARD AND  
PAYMENT OF ATTORNEY FEES  
PURSUANT TO THE EQUAL  
ACCESS TO JUSTICE ACT, 28  
U.S.C. § 2412(d)

On February 22, 2021 this Court issued an order reversing the final decision of the Defendant, Andrew Saul, the Commissioner of Social Security (Commissioner), with a remand for a rehearing, 42 U.S.C. § 405(g) (sentence four); judgment was entered.

In the interest of administrative and judicial economy, the parties have agreed to stipulate that an award of EIGHT HUNDRED SIXTY AND SEVENY-FIVE (\$860.75) in attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), is reasonable. This award is without prejudice to Plaintiff's right to seek attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. However, this

1 award shall constitute a complete release from and bar to any claims Plaintiff may have relating  
2 to EAJA fees and costs. Further, such award shall not be used as precedent in any future cases,  
3 nor be construed as a concession by the Commissioner that the original administrative decision  
4 denying benefits to Plaintiff was not substantially justified.

5 After the Court issues an order for EAJA fees to Plaintiff, the Government will consider  
6 the matter of Plaintiff's assignment of EAJA fees to Harvey P. Sackett ("Counsel"). Pursuant to  
7 Astrue v. Ratliff, 560 U.S. 586 (2010), the ability to honor an assignment will depend on whether  
8 the fees are subject to any offset allowed under the United States Department of the Treasury's  
9 Offset Program. After the order for EAJA is entered, the Government will determine whether  
10 they are subject to offset. Fees shall be made payable to Plaintiff, but if the Department of  
11 Treasury determines Plaintiff does not owe a federal debt, then the Government shall cause the  
12 payment of fees, expenses, and costs to be made payable directly to Counsel, pursuant to the  
13 assignment executed by Plaintiff. Any payments made shall be delivered and made payable to  
14 Counsel.

15 Accordingly, Defendant agrees to pay Plaintiff \$860.75 in attorney's fees.

16 All parties whose signature lines appear in this document have consented to its filing.  
17 This award is without prejudice to the rights of Sackett and Associates and/or Harvey P. Sackett  
18 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause  
19 provisions of the EAJA.

20  
21 Dated: May 21, 2021

SACKETT AND ASSOCIATES

22 By: /s/ HARVEY P. SACKETT  
23 HARVEY P. SACKETT  
24 Attorney for Plaintiff  
RAUL MARTELL

1 Dated: May 21, 2021

STEPHANIE HINDS  
United States Attorney

2  
3 By: /s/ANDREA BANKS  
ANDREA BANKS  
4 Special Assistant United States Attorney  
Attorneys for Defendant  
5 [\*As authorized by email on 5/21/21]

6  
7 **ORDER**

8 Pursuant to the stipulation, IT IS SO ORDERED.

9  
10 Dated: May 24, 2021

  
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11 ROBERT M. ILLMAN  
12 United States Magistrate Judge